

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

WAYNE BLACK, #137192,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 1:03cv734-MEF
)	
LAMAR GLOVER, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff Black seeks to subpoena several witnesses in this case. Based upon plaintiff's witness lists (Doc. ### 19, 25 and 28), and the status conference conducted by telephone on September 22, 2006, and for good cause, it is

ORDERED as follows:

The Clerk of the Court shall issue and the United States Marshal shall serve the following five requested subpoenas on behalf of the plaintiff.

1. Darien Bush
2601 Rocky Branch Road
Dothan, AL 36301
2. Anthony Boston
903 Woodlawn Drive
Dothan, AL 36301
3. Vallie Hathaway
1581 County Road 81
Abbeville, AL 36310
4. Jacqueline Britt
119 South Foster
Apartment 213

Dothan, AL 36301

5. Dr. Sam Banner
c/o Nathaniel Medical Center
1435 W. Main Street
Dothan, AL 36302

In addition, defendants have agreed to produce the following witnesses at trial without subpoenas in this case:

Sheriff Lamar Glover
Walter Bowers
Darla Speigner
Roy Caine
LaRoderick Roberts
Sgt. Kim Turner

The court notes that, whether a witness is subpoenaed by a pauper or not, Rule 45(c) requires that a subpoena must be accompanied by a per diem fee (\$40 per day), and a subsistence fee if overnight stay is required, and mileage at \$.44.5 per mile each way, or it need not be obeyed. The witness will be so informed by the subpoena. It is the responsibility of the plaintiff to provide that money to the clerk's office for tender with the subpoena. However, even if the Plaintiff cannot tender the required fee, witnesses still may be subpoenaed and may still attend if they agree to do so without payment of the per diem fee and reimbursement of expenses.

On September 22, 2006, the court reminded plaintiff of the requirements of Rule 45(c) by conference call, and asked whether he desired the subpoenas referenced above to issue with or without the fees required. The court informed plaintiff that the subpoenas need not be obeyed if appropriate fees are not provided with the subpoenas, and offered to give the plaintiff until September 26, 2006 to provide the required fees to the clerk's office.

However, plaintiff declined to provide the fees, requested no extension or continuance of the trial, and asked that the subpoenas be served immediately without fees. Accordingly, plaintiff's requested subpoenas may issue in this case without delay.

DONE, this 22nd day of September, 2006.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
UNITED STATES MAGISTRATE JUDGE